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OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Report

for the

Regulatory and Abandoned Mine Land Reclamation Programs

Administered by the State

of

Utah

for

Evaluation Year 1994

(July 1, 1993, through June 30, 1994)

November 1994

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I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior to oversee the regulation of coal exploration and surface coal mining and reclamation operations and the reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the regulation of surface coal mining and reclamation operations and the reclamation of abandoned mine lands within its borders. Once the State has obtained such approval, OSM has the responsibility to make the investigations, evaluations, and inspections necessary to determine whether the State programs are being administered and enforced in accordance with the approved program provisions.

Since it is neither possible nor necessary to fully evaluate each program element and sub-element every year, OSM's Albuquerque Field Office (AFO) has developed a schedule (Appendix B) specifying when each element and sub-element will be reviewed during a 3-year evaluation cycle. This schedule will be revised as necessary to respond to changing conditions within Utah and concerns identified by the public or OSM oversight activities. Comments regarding the oversight process, recommendations for additional review topics, and suggestions for improvement of future reports are encouraged and should be submitted to the Director of AFO. Because of the nature of the 3-year review cycle, some findings concern State performance prior to July 1, 1993. In these cases, the greatest emphasis is accorded to the most recent State actions reviewed.

Set forth below are the summary findings of the Director of OSM's AFO regarding the performance of Utah for the period July 1, 1993, through June 30, 1994. Detailed background information and comprehensive element-specific reports are available at AFO.

II. List of Acronyms

AFO	Albuquerque Field Office
AML	Abandoned Mine Land
AMLIS	Abandoned Mine Land Inventory System
AMLR	Abandoned Mine Land Reclamation
AMRA	Abandoned Mine Reclamation Act
AVS	Applicant/Violator System
AVSO	Applicant/Violator System Office
CFR	Code of Federal Regulations
CO	Cessation Order
DOI	Department of the Interior
DOT	Department of the Treasury

DOGM	Utah Division of Oil, Gas and Mining
EY	Evaluation Year
FONSI	Finding of No Significant Impact
FTACO	Failure to Abate Cessation Order
LSCI	Last State Complete Inspection
MSHA	Mine Safety and Health Administration
NEPA	National Environmental Policy Act
NOV	Notice of Violation
OMB	Office of Management and Budget
O/C	Ownership and control
OSM	Office of Surface Mining Reclamation and Enforcement
PAD	Problem Area Description
PAP	Permit Application Package
POV	Pattern of Violation
RSI	Random sample inspection
SMCRA	Surface Mining Control and Reclamation Act
TDN	Ten-Day Notice
UDPES	Utah Pollution Discharge Elimination System

III. Executive Summary

DOGM's accomplishments for EY 1994 included the timely termination of enforcement actions, enforcement action termination following plan implementation, provision of ample opportunity for citizen participation, and the proper administration and management of Federal grants.

During EY 1994, several problems were identified by OSM with DOGM's implementation of the approved program as consistent with the provisions of SMCRA. Those problems included approved but unsupported abatement period extensions and terminations, and the failure to conduct POV reviews.

Those issues identified as problems in previous years, and which continue to be problems, are (1) citation of violations; (2) late assessment of proposed civil penalties; (3) explanation for civil penalty assessments (discretionary waivers); (4) maintenance of the AVS; (5) permit renewal processing procedures; (6) the permitting of haulroads and access roads; and (7) the elimination of highwalls.

OSM awarded DOGM almost \$21.4 million to administer its AMR Program and reclaim abandoned mine lands since OSM approved the Utah Abandoned Mine Reclamation Plan (the Plan) effective June 3, 1983. To date, DOGM has been awarded funding for 39 coal and 11 noncoal reclamation projects. Tables 20 and 21 in Appendix A summarize DOGM's funding.

DOGM worked on 2 coal and 2 noncoal projects during the 1994 evaluation period. Of these four, two noncoal projects and one coal project were started in this period. DOGM completed one noncoal project and two coal projects. About 469 acres have been reclaimed by the Program since this Plan was approved. Accomplishments during the period also included public safety awareness programs, project monitoring, and continued project planning and engineering. Table 22 summarizes the Program's reclamation accomplishments in greater detail.

Most notable among DOGM's accomplishments in EY 1994 was being selected to receive the Abandoned Mine Land Reclamation Award. OSM chose DOGM's Tintic noncoal project to receive the award. The Tintic project included 41 portal and shaft closures, many of which required specially constructed grates due to their location and size.

DOGM's volunteer and other Federal State and local entities and landowners assisted the AMR Program with hazard abatement and increasing public AML awareness. These efforts, combined with the cooperation of the people of Utah, help keep the number of abandoned mine related accidents low. No abandoned mine emergencies were reported in the State of Utah in EY 1994.

IV. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18 percent of the State, but only 4 percent is considered minable at this time. The demonstrated coal reserve base is about 6.4 billion tons, 1.3 percent of the National reserve base. Most of Utah's coal resources are held by the Federal Government and Indian Tribes.

The coal fields are divided into the Northern, Central, Eastern, and Southwestern Utah Coal Regions. The most productive region is the Central Utah Coal Region which includes the Book Cliffs, Wasatch Plateau, and Emery Coal Fields. There are vast, substantially undeveloped coal fields in the Southwestern Utah Coal Regions. Development of these fields will probably be difficult because of environmental concerns resulting from the proximity to National Parks and other recreation areas.

Most of the coal is bituminous and is of Cretaceous Age. The BTU value is high compared to other States. Sulfur content ranges from medium to low in the more important coal fields.

Most current operations mine seams exceed 8 feet in thickness. There is one surface mine, permitted in 1993. The rest of the coal production is from underground mining. There are 32 inspectable units, 24 of which are currently operating. There

are 132,270 acres of land currently under permit for mining with approximately 2,500 acres disturbed. Coal production has been steadily increasing since the early 1970's, producing 21.03 million tons in 1993. Utah's coal industry employs approximately 2,500 miners.

The climate of the Central Utah Coal Region is characterized by hot, dry summers and cold, relatively moist winters. Normal precipitation varies from 6 inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from 5 months in some valleys to only 2 1/2 months in mountainous regions. These extreme climatic conditions make reclamation difficult.

Abandoned mine hazards in Utah are varied, numerous, and widespread. Coal mine hazards commonly include open vertical shafts, open portals often accompanied by methane emission, deteriorated structures, burning coal piles, unstable mine waste piles, underground coal mine fires, subsidence, and erosion of waste material into streams. Most abandoned coal mines are found in the Central Utah Coal Region where much of the State's coal mining took place. However, abandoned coal mines can be found in the southwestern, southcentral, and northeastern areas of Utah as well. Many coal problem areas in Utah already have been reclaimed. Thousands of abandoned noncoal mine hazards can be found throughout the State. Abandoned noncoal mine hazards in Utah commonly include open vertical and inclined shafts, open portals, deteriorated structures, unstable waste piles, and subsidence.

No injuries or deaths associated with abandoned mines were reported in Utah during the 1993 and 1994 evaluation periods. Twenty-three reported incidents involving abandoned mines occurred in Utah since May 1982. Thirteen of those incidents involved injuries to people, three of which resulted in fatalities. Twenty of them involved abandoned noncoal mines.

V. Success in Achieving the Purposes of SMCRA

There are approximately 132,270 permitted acres in Utah. Of the permitted acreage, 2,738 acres have been disturbed. Limited reclamation has occurred on 173 acres since program approval. One site was approved for final bond release. Eight sites are awaiting various states of bond release. Three other sites are in bond forfeiture. One reason for the limited reclamation is the large percentage of underground mines which only minimally create surface disturbance. Another reason is the current stage of mining activities in Utah (ongoing mining or early reclamation), which have not achieved final reclamation. This makes it difficult to quantify reclamation success through yearly comparisons of disturbed, regraded and revegetated acres. Due to the early stages of bond releases in Utah, most of this review is based upon potential trends and not on final reclamation results.

The regulation of roads, AOC, highwall elimination, erosion control, and reseeded remain as concerns with Utah's mine reclamation progress. The issue of highwall elimination has delayed some bond releases in Utah. Bond forfeiture concerns are still an ongoing issue in Utah at three abandoned minesites where the State is undertaking mine reclamation.

Utah's AMR Program abated safety and environmental hazards associated with 1,196 mine openings, 17 acres of underground mine fires, 2,925 feet of dangerous highwalls, 138 hazardous structures, and almost 34 acres of surface burning to date. Its reclamation also improved about 10.6 miles of streams and 278 acres affected by mine waste. Reclamation restored these areas to conditions that will be more compatible with surrounding areas and will be of greater use to the people and wildlife of Utah than if they were left unreclaimed. In that context, DOGM's AMR achieved the purposes listed in Section 102 of SMCRA.

VI. Status of Issues from Previous Annual Evaluation Reports

The significant issues relating to DOGM's program that continue to need improvement include (1) citation of violations; (2) late assessment of proposed civil penalties; (3) explanation of civil penalty assessments (discretionary waivers); (4) the permitting of haulroads and access roads; (5) maintenance of the AVS; (6) permit renewal processing procedures; and (7) the elimination of highwalls.

DOGM's record with respect to the citation of violations improved slightly this EY as 21 percent of the violations believed to have existed during the LSCI were cited. This is compared to a 16 percent citation rate in EY 1993 and a 25 percent citation rate in EY 1992. However, a problem exists in the number of LSCI violations per minesite in Utah. During EY 1993, OSM found 31 LSCI violations for 16 RSI inspections (2.1 per minesite). Forty-eight percent (15 of 31) LSCI violations came from one minesite and 65 percent (10 of 16 RSIs) actually had no LSCI violations. OSM judged DOGM's enforcement program to be acceptable in EY 1993 as 48 percent of LSCI violations could be attributed to a single mine.

In EY 1994, the number of LSCI violations increased to 2.6 per minesite (39 violations for 15 RSIs). In addition, the number of LSCI violations could not be attributed to one minesite in particular, as only 28 percent were concentrated at one minesite. Also, only 5 of 15 RSIs (33 percent) had no LSCI violations. The LSCI violations were more evenly distributed over the 15 RSIs conducted during EY 1994. DOGM has the expertise to cite violations and should be able to reduce the number of LSCI violations.

Proposed civil penalties continued to be assessed late: 53 percent late in EY 1994, 53 percent late in EY 1993, and 40 percent late in EY 1992. The range for late assessments was 1 to 53 days, with the average being 16 days. By assessing civil penalties late, many potential history points have expired and the overall assessment is lower than a timely assessment would have been.

OSM continued to find problems with DOGM's failure to explain civil penalty assessments with respect to discretionary waivers. DOGM's rules at R645-401-510 require that discretionary waivers be given only in the case of "exceptional factors" when the penalty is "demonstrably unjust." In EY 1994, DOGM increased the use of discretionary waivers without explanation (11 given to 60 nonvacated assessments or 18 percent). During EYs 1993 and 1992, DOGM issued approximately 2 discretionary waivers for 60 nonvacated assessments per year (3 percent). The EY 1994 waivers were evenly distributed to operators, except for one mine which received four discretionary waivers. This mine also received three civil penalty dismissals from the Utah Board despite Board findings upholding the fact of violations.

The failure of DOGM to permit access roads and haulroads has been a long-standing issue in previous evaluation reports. This issue was deleted from the EY 1993 report as DOGM had proposed an amendment to the State program to resolve this outstanding Part 732 issue. The amendment to the State program, with language "substantively identical" to the Federal regulations, was approved by Federal Register notice dated April 7, 1994. Since the publication of this Federal Register notice, no progress has been made on the permitting of access roads and haulroads.

The failure of DOGM to eliminate highwalls was omitted from the EY 1993 report as DOGM had proposed an amendment to the State program to resolve this outstanding Part 732 issue. The amendment to the State program was approved by Federal Register notice dated September 17, 1993. Since that time, DOGM has failed to promulgate the approved rules and highwalls remain an issue.

No significant issues were noted in OSM's evaluation of DOGM's AMR Program in the previous AER.

VII. Actions Affecting Program Implementation

No situations occurred during the 1994 evaluation period that affected implementation of DOGM's regulatory or AMR programs.

VIII. Summary Findings

A. Regulatory Program

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November 22, 1994

Regulatory Program Element 1: Permitting Actions

Sub-elements Reviewed: A.1. Use and maintenance of the Applicant Violator System; A.2. Processing of exploration applications; A.5 Processing of permit renewal applications; A.7 Periodic reviews of permits for special types of mining, and; A.9 Technical Subject Evaluation - Subsidence control and monitoring plan.

Type of Review: 3(d), 2, 2, 2, and 2.

Summary Findings:

AFO has reviewed Utah's use and maintenance of the Applicant Violator System (AVS) for four years due to cyclical review, unresolved concerns; and National priority status. In EY 1993 AVS oversight was selected as a national priority topic and OSM's review determined that though DOGM's actions in querying the system for permitting action was appropriate, maintenance of the system's information was not. In EY 1994, by reviewing AVS quarterly reports, permit documents and special ad hoc reports requested from the headquarters AVS office, AFO determined that DOGM continued to experience difficulty in maintaining accurate information in the AVS system. Additionally, DOGM personnel were not responsive to the AVS office or to the needs of the system, resulting in the system being inaccessible to DOGM for a significant period of time.

DOGM did not process any exploration permits or special types of mining; therefore these topics are not addressed in this report.

Processing of permit renewal applications was a cyclical workplan topic for EY 1994. Additionally, this topic has been partially reviewed each year since EY 1991 because of serious problems which were found and never fully remedied. Assessment of DOGM's performance in processing of permit renewals included previously reviewed renewals that were determined to be problematic as well as newly renewed permits.

DOGM continues to experience problems with the permit renewal process and with achieving final resolution of renewal issues from past evaluation years. DOGM has established a new renewal policy which states the mining and reclamation plan, because it receives regular attention through the inspection and enforcement process, does not need to be reviewed at renewal and that no information will be revised at renewal. At this time OSM considers this inappropriate for DOGM's processing of permit renewals on mines for which permit conditions still exist.

OSM reviewed the subsidence control and monitoring plans in three approved permits and found no significant deficiencies. The mine plans contained adequate descriptions of their subsidence control measures, monitoring points and discussion of mitigation of damages. The mine plans also contained appropriate lithographic and stratigraphic discussions but did not relate the geological information to the subsidence potential.

Regulatory Program Element 2: Bonding

Sub-elements Reviewed: B.6. Processing of Bond release inspections.

Type of Review: 2.

Summary Findings:

In EY 1993 DOGM processed one Phase I bond release. In EY 1994 DOGM processed two Phase II bond release requests. In all cases procedural requirements generally were met. However, in each case OSM did not agree with the State's assessment that the on-the-ground standards for release had been achieved.

Regulatory Program Element 3: Inspections

Sub-elements Reviewed: C.1. Inspection frequency and procedures.

Type of Review: 1

Summary Findings:

DOGM conducted 252 partial and 133 complete inspections on 32 inspectable units. DOGM met the required frequency of inspection for all active minesites except for 1 complete and 1 partial inspection. All inactive complete inspections were conducted. On abandoned sites 8 of 12 complete inspections were conducted (Tables 3 and 4). DOGM is in compliance with requirements for conducting inspections on exploration sites to ensure compliance with the State program.

Regulatory Program Element 4: Enforcement

Sub-elements Reviewed: D.1. Identification and citation of violations; D.2. Notices of violations and cessation orders; and D.5. Responses to ten-day notices.

Type of Review: 1, 2, and 1.

Summary Findings:

During EY 1994, OSM observed 39 violations which were believed to have existed during the LSCI. DOGM cited 8 of 39 (21 percent) during the LSCI and did not cite 31 (79 percent). During EY 1993, DOGM's citation rate was 16 percent (5 of 31 violations). During EY 1992, DOGM's citation rate was 25 percent (4 of 16 violations). (The EYs were based on a 50 percent sample, although in EY 1994 only 15 of 32 inspectable units were the subject of RSIs). Although there may be a positive trend for increased citation on the part of DOGM for EY 1994, it is also true that the number of LSCI violations has greatly increased. In EY 1992, there was an average of 1.0 LSCI violation per minesite; in EY 1993, 2.1 per minesite; and in EY 1994; 2.6 per minesite. In EY 1993, 48 percent of the LSCI violations could be attributed to one minesite. However, in EY 1994 only 28 percent could be attributed to one minesite. Therefore, although DOGM has the expertise to cite violations, the State is citing fewer numbers of enforcement actions as exemplified by the resultant increase in OSM observed violations.

There is an increasing number of untimely enforcement actions issued by DOGM. In EY 1994, 34 percent of the NOV's were issued beyond DOGM's internal policy of 5 days, as compared with 9 percent in EY 1993. The range of days for the issuance of EY 1994 NOV's was 1 to 79 days with the average being 15 days. In addition, 31 percent of the follow-up inspections in Eys 1994 and 1993 were held beyond 5 days from the abatement date specified in the NOV. The potential exists for on-the-ground violations to remain unabated for extended periods and possibly contribute to environmental degradation.

Approximately 50 percent of State enforcement actions have one or more approved but unsupported time extension requests. Approximately 12 percent of State enforcement actions have large gaps (2 weeks or more) in approved time extensions. These extensions are frequently found in enforcement actions extending beyond the 90-day abatement period. These extensions appear to conflict with the State program at R645-400-324 and 400-327, and the potential for additional environmental harm exists when unabated enforcement actions continue without approved time extensions and without FTA-COs being issued. DOGM recognizes the timeliness problem and intends to computerize enforcement tracking.

DOGM did not review for POVs during the past evaluation year. In checking enforcement actions for EY 1993 and 1994, OSM found "mandatory" POVs of "same or related requirements" for violations concerning the UPDES permit and sediment control structures at the Sunnyside Mine and permit transfer renewals at White Oak Mines 1 & 2. In addition,

"discretionary" POVs were identified for Sunnyside R & S concerning the payment of reclamation fees, the UPDES permit, and sediment control measures. DOGM was notified that the statute of limitations had not expired for the determination of POVs and that they could still take action to meet the programmatic requirements for POV review. The State Director agreed to initiate a review. A POV policy drafted by the State without OSM's concurrence has been forwarded to OSM-HQ for guidance.

Regulatory Program Element 5: Civil Penalties

Sub-elements Reviewed: None.

Type of Review: 0

Summary Findings:

This element was not scheduled for review during EY 1994.

Regulatory Program Element 6: Administrative and Judicial Review

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings:

This element was not scheduled for review during EY 1994.

Regulatory Program Element 7: Designation of Lands Unsuitable for Mining

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings:

This element was not scheduled for review during EY 1994.

Regulatory Program Element 8: Blaster Certification

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings:

This element was not scheduled for review during EY 1994.

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Regulatory Program Element 9: Small Operator Assistance

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings:

This element was not scheduled for review during EY 1994.

Regulatory Program Element 10: Maintenance of Approved Program

Sub-elements Reviewed: J.1. Notification to OSM of program changes and significant conditions and events affecting implementation; J.2. Responses to Part 732 notifications and amendment requirements; and J.3. Promulgation and implementation of approved program amendments.

Type of Review: 1, 1, and 1.

Summary Findings:

The State program was approved on January 21, 1981, with 12 conditions of approval (conditions 944.11(a) through (1)). All 12 program conditions were resolved.

Since the Utah program was approved, the State was sent eight letters pursuant to 30 CFR Part 732.17(d). These include Regulatory Reform I (May 12, 1986) Cultural Resources (June 9, 1987); Regulatory Reform III (November 21, 1988); Ownership Unit Control (May 11, 1989); Regulatory Reform III (November 27, 1989); Incidental Mining (February 7, 1990); Subsidence (June 22, 1990); and Highwall Reclamation (January 9, 1991, July 18, 1991, and January 17, 1992). The one regarding subsidence was remanded by OSM on April 17, 1991. Consequently, of the eight letters, seven are valid.

All Regulatory Reform I issues are resolved; all Cultural Resources issues are resolved; all Regulatory Reform II issues are resolved; all Ownership and Control issues are resolved; all Regulatory Reform III issues are resolved except for one issue (D-5); and all Incidental Mining issues are resolved. With regard to the final Part 732 letters for Highwall Reclamation, Utah submitted an amendment on April 30, 1992. OSM approved the amendment on September 17, 1993, but the approval also placed four required amendments in response to these required amendments which OSM is currently processing.

However, DOGM's approved rules concerning highwalls (Federal Register notice dated September 17, 1993) have not been promulgated and therefore not implemented. DOGM's approved rules concerning the permitting of haulroads and access roads, which have been promulgated, have not been implemented. Therefore, the issue of highwall elimination and roads permitting remain as implementation issues.

Regulatory Program Element 11: Program Administration

Sub-elements Reviewed: K.1. Grants management, K.3 Coordination with other agencies; and K.4. Identification and resolution of conflicts of interest.

Type of Review: 2, 2, and 2.

Summary Findings:

OSM reviewed DOGM's annual conflicts of interest filings and performance requirements found at R645-101. DOGM submitted information to meet the minimum requirements of R645-101 but did not submit additional information requested by OSM-HQ. DOGM had two possible conflicts of interest concerning Governor Leavitt of Utah and the Chairman of the Utah Board of Oil, Gas and Mining. DOGM has been apprised of these situations and agreed to check the Governor's conflict on the Board of Directors for a mining company in the first case. The Governor has since been removed from the AVS system. In the second case, the Board Chairman met with OSM's then Acting Director concerning a mine that was subject to a Federal NOV. The Board Chairman is employed by a company wholly owned by the mine operator. The Board Chairman proposed to obtain a letter from OSM's then Acting Director to state that it was not a conflict of interest to discuss the Federal NOV as long as it was in context of the overall meeting concerning Federal involvement in a primacy State. State rules at R645-101 require that Board members recuse themselves from proceedings affecting their direct or indirect financial interests. DOGM notified OSM that this action was accomplished.

OSM reviewed all documents it received about grant transactions. DOGM continues to administer and manage grants in accordance with DOT, DOI and OMB requirements. The annual single audit reviewed internal controls and reported no material weaknesses in the internal control systems for these programs. There is currently no property acquired with Federal funds being held within the OSM grants, but OSM's prior experience indicates that if the State decides to purchase grant property in the future, their system is capable of handling it appropriately. Contacts with DOGM revealed no significant concerns in grants management.

OSM evaluated the State's communication and coordination with other agencies primarily through contacts with State personnel, as well as the review of grant documentation. Contact with State employees in the program, and in accounting and other functions, revealed no significant deficiencies in the program's coordination with these other State agencies.

Regulatory Program Element 12: Citizen Participation

Sub-elements Reviewed: None.

Type of Review: 3(c).

Summary Findings:

DOGM has well established procedures giving public notice and notice to interested parties and governmental agencies. Most citizen participation originates as queries directed to DOGM's coal mining records and information section. DOGM received complaints in earlier EYs from water user groups and the Southern Utah Wilderness Alliance concerning a POV hearing and permitting issues. No complaints were received in EY 1994.

Regulatory Program Element 13: Contemporaneous Reclamation

Sub-elements Reviewed: None.

Type of Review: 4.

Summary Findings:

As a result of OSM's outreach efforts, evaluation of the State's implementation of State program time and distance standards for contemporaneous reclamation was selected as a national priority review topic for EY 94.

Utah regulations on the requirements of permit applications, R645-301-540, states that the operation must supply a "detailed timetable for the completion of each major step in the reclamation plan." Additionally, R645-301-240 and R645-301-340 require the reclamation scheduling of topsoil replacement and revegetation, respectively. Time and distance standards are presented in RD645-301-553 which states that, for surface mining operations, the rough backfilling and grading will occur within 60 days and will not be more than 1500 linear feet behind the pit.

OSM reviewed reclamation timetables and scheduling in mine plans and conducted inspections of the portion of the inspectable units to determine compliance with this performance standard and with the approved reclamation plan. OSM determined that DOGM does not require specific reclamation plans for permit application packages. Because all mines in Utah are underground mines no performance standards are applicable. There is no regulation allowing variances from reclaiming underground mines immediately after closure. DOGM has not required contemporaneous reclamation at mines currently reclaiming.

VIII. Summary Findings

B. AMLR Program

Utah November 18, 1994

AMLR Program Element 1: Project Planning

Sub-elements Reviewed: None.

Type of Review: 0.

Summary Findings:

This element was not selected for review during EY 1994.

No sub-elements of this element were scheduled for review in EY 1994. OSM will evaluate the inventory maintenance, project selection, rights of entry, and lien eligibility determinations sub-elements in EY 1995. Review of interagency coordination will be conducted in a subsequent evaluation period.

AMLR Program Element 2: Project Construction

Sub-elements Reviewed: (1) Construction Management; and (2) Postconstruction Monitoring and Evaluation

Type of Review: 2.

Summary Findings:

DOGM effectively used staff resources and the construction season to achieve program objectives and project goals. Its reclamation was consistent overall with project specifications and grant proposals while providing for changes to accommodate site-specific conditions. Utah's projects conformed to special conditions and mitigation measures required for NEPA compliance. DOGM satisfactorily monitored contract compliance and active construction. OSM did not review this sub-element in EY 1993 but no problems were evident at that time. During EYs 1993 and 1994, OSM's evaluation is based on field visits to 13 projects, reviews of DOGM's project files in both periods, and discussions with DOGM officials.

DOGM monitored completed projects to determine maintenance needs, generally to determine if reclamation was successful, and to determine if techniques and design alternatives accomplished site-specific goals. OSM did not review this sub-element in the previous period and no problems were evident. This evaluation is based on OSM's review of DOGM's project files for 26 completed coal and noncoal reclamation projects.

OSM did not review the project maintenance, lien recording and maintenance, or emergency investigations and abatement efforts subelements during EY 1994. No problems with these aspects of DOGM's program were noted during the period, however. The project maintenance and lien recording and maintenance sub-elements are included in OSM's 1995 Annual Evaluation Plan for Utah. OSM will review the adequacy of contract terms and specifications in a subsequent evaluation period.

OSM did not review the emergency investigations and abatement efforts sub-element in EY 1994 because Utah does not have an approved emergency program.

Utah November 22, 1994

AMLR Program Element 3: Program Administration

Sub-elements Reviewed: (1) Grants Management - Maintenance of Internal Controls, and Procurement and Management of Property and Services

Type of Review: 2.

Summary Findings:

Utah administered and managed its Federal grants in accordance with DOT, DOI, and OMB requirements. The State maintained adequate internal control systems to ensure proper procurement, management, and disposal of property and services it acquired with Federal Funds. OSM did not review these components of the Grants Management sub-element during the 1993 evaluation period and no problems were noted at that time. This evaluation is based on OSM's review of DOGM's grant applications and final financial reports, drawdown records in OSM's Drawdown Express cash request and payment system, and the Single Audit Report of the State of Utah for the fiscal year ending June 30, 1992.

OSM did not review the drawdowns and disbursements, accounting procedures, timeliness of applications and reports, and audits and implementation of audit recommendations components of the grants management sub-element during the 1994 evaluation period. Utah's accounting procedures and its timeliness of applications and reports are included in OSM's 1995 Annual Evaluation Plan. The remaining components of grants management will be reviewed in subsequent periods. The data management, coordination with other agencies, and management and disposal of abandoned mine lands sub-elements were not scheduled for review in EY 1994 either. OSM will review coordination with other agencies in the 1995 period. OSM is not aware of any problems with those aspects of the State's program that were not reviewed during EY 1994. OSM did not review the subsidence insurance program management sub-element because Utah does not have an approved subsidence insurance program.

AMLR Program Element 4: Maintenance of Approved Reclamation Plan

Sub-elements Reviewed: (1) Notification to OSM of Significant Conditions and Events Affecting Plan Implementation; (2) Responses to OSM Notifications that Plans Amendments are Needed; and (3) Promulgation and Implementation of Approved Plan Amendments

Type of Review: 2.

Summary Findings:

No events or conditions occurred that prevented or impeded DOGM's adherence to its approved AMR plan during the 1993 and 1994 evaluation years. OSM's evaluation is based on its review of DOGM's plan, code, and AMR rules, the State's responses to OSM issue and notification letters, and discussions with DOGM officials.

DOGM's responses and informal and formal submittals concerning proposed changes to the Utah code as a result of OSM's discussion of a lien issue in the 1992 report were timely. DOGM's responses and formal submittal concerning changes to the Utah code as a result of AMRA and the Energy Policy Act of 1992 (P.L. 102-486) were timely. DOGM has been waiting for OSM to promulgate regulations implementing AMRA and P.L. 102-486 before it amends its rules. Those regulations were finally published in the May 31, 1994, Federal Register. Presently, DOGM does not see an advantage to taking over the emergency reclamation program, so it has not submitted a proposed amendment to do so. OSM's evaluation is based on its review of DOGM's plan, code, and AMR rules, the State's responses to OSM issue and notification letters, and discussions with DOGM officials.

DOGM's efforts to have proposed code revisions before the 1993 and 1994 meetings of the Utah Legislature were timely. Rules changes to implement the Utah Code changes have not been made yet because DOGM was waiting for the final Federal regulations implementing AMRA and P.L. 102-486. OSM's evaluation is based on its review of DOGM's plan, code, and AMR rules, the State's responses to OSM issue and notification letters, and discussions with DOGM officials.

Utah November 22, 1994

APPENDIX A

Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration

These tables present data pertinent to mining operations, State and Federal regulatory activities and the reclamation of abandoned mines within Utah. They also summarize funding provided by OSM and Utah staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the 1994 evaluation year (July 1, 1993 - June 30, 1994). Additional data used by OSM in its evaluation of Utah's performance is available for review in the evaluation files maintained by the Albuquerque Field Office.

TABLE 1

COAL PRODUCTION (Millions of Short Tons)			
Calendar year	Surface mines	Underground mines	Total
Coal production for entire State			
1991	0	21.9	21.9
1992	0	21.33	21.33
1993	.03	21.00	21.03
Coal production where OSM is the regulatory authority			
1991	0	0	0
1992	0	0	0
1993	0	0	0

TABLE 2

INSPECTABLE UNITS (As of June 30, 1994)												
Coal mines and related facilities	Number and status of units									Acreage ^A (hundreds of acres)		
	Active		Inactive		Abandoned		Totals					
			Temporary cessation	Phase II bond release								
	IP	PP	PP	IP	PP	IP	PP	IP	PP	IP	PP	Total
STATE and PRIVATE LANDS												
REGULATORY AUTHORITY: (UTAH)												
Surface mines	0	1	0	0	0	0	0	0	1	0	3.1	3.1
Underground mines	1	19	4	0	0	1	2	2	25	.54	509.64	510.18
Other facilities	0	3	0	0	0	0	0	0	3	0	6.41	6.410
Subtotals	1	23	4	0	0	1	2	2	29	.54	519.15	519.69
FEDERAL LANDS												
REGULATORY AUTHORITY: (UTAH)												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0
Underground mines	0	14	4	0	0	0	0	0	18	0	801.8	801.8
Other facilities	0	2	0	0	0	0	0	0	2	0	1.24	1.24
Subtotals	0	16	4	0	0	0	0	0	20	0	803.04	803.04
INDIAN LANDS												
REGULATORY AUTHORITY: OSM												
Surface mines	0	0	0	0	0	0	0	0	0	0	0	0
Underground mines	0	0	0	0	0	0	0	0	0	0	0	0
Other facilities	0	0	0	0	0	0	0	0	0	0	0	0
Subtotals	0	0	0	0	0	0	0	0	0	0	0	0
ALL LANDS ^B												
Surface mines	0	1	0	0	0	0	0	0	1	0	3.1	3.1
Underground mines	1	19	4	0	0	1	2	2	25	.54	1311.44	1311.98
Other facilities	0	4	0	0	0	0	0	0	4	0	7.65	7.65
Totals	1	24	4	0	0	1	2	2	30	.54	1322.73	1322.73
Average number of permits per inspectable unit (excluding exploration sites)												1
Average number of acres per inspectable unit (excluding exploration sites)												4134
Number of exploration permits on State and private lands:												1
Number of exploration notices on State and private lands:												3
On Federal lands:												0
On Federal lands:												3
^{IP} : Initial regulatory program sites. ^{PP} : Permanent regulatory program sites. ^A When a unit is located on more than one type of land, includes only the acreage located on the indicated type of land. ^B Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. ^C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.												

IP: Initial regulatory program sites.

PP: Permanent regulatory program sites.

^A When a unit is located on more than one type of land, includes only the acreage located on the indicated type of land.^B Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories.^C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.

TABLE 3

STATE INSPECTION ACTIVITY								
Type of inspectable unit	Number of inspections conducted		Percent of required inspections conducted ^A		Inspectable units for which State met required inspection frequency			
	Complete inspections	Partial inspections	Complete inspections	Partial inspections	Complete inspections		All inspections	
COAL MINES AND FACILITIES					Number	%	Number	%
Active	109	198	99	99	24	96	23	92
Inactive	16	26	100		4	100	4	100
Abandoned	8	28	67	100	0	0	0	0
Totals	133	252	96	99	28	88	27	84
Exploration permits ^B	0	9						
Exploration notices ^B	0	3						
^A Calculated on a site-specific basis. Excess complete inspections are considered partial inspections. For each site, any inspections in excess of the total number required by the approved program are not included.								
^B Includes all valid or unreclaimed notices and permits. No inspection frequency data are provided since SMCRA does not establish a minimum numerical inspection frequency for coal exploration activities.								

TABLE 4

TRENDS IN INSPECTABLE UNITS AND STATE INSPECTIONS				
Evaluation Year		1992	1993	1994
Inspectable units for which State has jurisdiction				
Surface mines:	Active	0	1	1
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for surface mines		0	1	1
Underground mines:	Active	22	20	20
	Inactive	3	4	4
	Abandoned	3	3	3
Subtotals for underground mines		28	27	27
Other facilities:	Active	4	4	4
	Inactive	0	0	0
	Abandoned	0	0	0
Subtotals for other facilities		4	4	4
All mine types:	Active	26	25	25
	Inactive	3	4	4
	Abandoned	3	3	3
Totals		32	32	32
Exploration permits		1	1	1
Exploration notices		12	6	6
State inspections conducted (Exclusive of exploration sites)				
Complete		145	130	133
Partial		244	240	252
Totals		389	370	385
Percent of required State inspections conducted				
Complete inspections		98	98	96
Partial inspections		99	99	99
Citizen complaints received		3	0	0

TABLE 5

STATE AND OSM ENFORCEMENT ACTIVITY						
Type of enforcement action taken	Actions taken by State		Actions taken by OSM on:			
			Sites where State is the primary regulatory authority		Sites where State is NOT the primary regulatory authority	
	Number of actions	Number of violations	Number of actions	Number of violations	Number of actions	Number of violations
Notice of violation issued	48	78	3	4	0	0
Imminent harm cessation order issued	0	0	0	0	0	0
Failure-to-abate cessation order	3	3	2	2	0	0
Show cause order issued for pattern of violations	0				0	
Permit suspended ^A	0				0	
Permit revoked	0				0	
Individual civil penalty assessed	0	0	0	0	0	0
Criminal penalty requested	0	0	0	0	0	0
Criminal penalty assessed	0	0	0	0	0	0
Injunction requested	0	0	0	0	0	0
Injunction obtained	0	0	0	0	0	0
Settlement agreement approved in lieu of further enforcement action	1	1	1	1	0	0
^A Average duration of permit suspension: <u> N/A </u> (Utah) <u> N/A </u> (OSM)						

TABLE 6

OSM INSPECTIONS OF SITES WHERE THE STATE IS THE PRIMARY REGULATORY AUTHORITY							
Type of unit inspected	Number of inspections by type of inspection						
	Random sample	State bond release	Other oversight	Ten-day notice followup ^A	Enforcement action followup	Other	Totals
Type of mine or facility^B							
Surface mines	1	0	0	1	0	0	2
Underground mines	11	2	0	2	3	*1	19
Preparation plants	1	0	0	0	0	0	1
Other facilities	2	0	0	0	0	0	2
Totals	15	2	0	3	3	1	24
Mine activity status^B							
Active	13	2	0	3	2	1	21
Inactive	2	0	0	0	1	0	3
Abandoned			0	0	0	0	0
Total bond release		2	0	0	0	0	2
Reclaimed forfeiture			0	0	0	0	0
Permit not started			0	0	0	0	0
Unpermitted			0	0	0	0	0
Type of permit^B							
Initial program	0	0	0	0	0	0	0
Permanent program	15	2	0	3	3	1	24
Unpermitted			0	0	0	0	0
Coal exploration sites							
Exploration permits			0	0	0	0	0
Exploration notices			0	0	0	0	0
^A When State response is inappropriate and Federal inspection is necessary. ^B Does not include coal exploration sites.							

* Bond calculation inspection

TABLE 7

OSM INSPECTIONS OF SITES WHERE THE STATE IS NOT THE PRIMARY REGULATORY AUTHORITY								
Type of unit inspected	Type of program under which inspections were conducted							
	Federal lands ^A		Indian lands		Other		Totals	
	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.	Complete insp.	Partial insp.
Type of mine or facility^B								
Surface mines	0	0	0	0	0	0	0	0
Underground mines	0	0	0	0	0	0	0	0
Preparation plants	0	0	0	0	0	0	0	0
Other facilities	0	0	0	0	0	0	0	0
Totals	0	0	0	0	0	0	0	0
Mine activity status								
Active	0	0	0	0	0	0	0	0
Inactive	0	0	0	0	0	0	0	0
Abandoned	0	0	0	0	0	0	0	0
Total bond release	0	0	0	0	0	0	0	0
Reclaimed forfeiture	0	0	0	0	0	0	0	0
Permit not started	0	0	0	0	0	0	0	0
Unpermitted	0	0	0	0	0	0	0	0
Type of permit								
Initial program	0	0	0	0	0	0	0	0
Permanent program	0	0	0	0	0	0	0	0
Unpermitted	0	0	0	0	0	0	0	0
Coal exploration sites								
Exploration permits	0	0	0	0	0	0	0	0
Exploration notices	0	0	0	0	0	0	0	0
^A In those States that have not entered into a State - OSM cooperative agreement providing for State regulation of mining and exploration on Federal lands. ^B Does not include coal exploration sites.								

TABLE 8

COMPLIANCE FINDINGS -- OSM INSPECTIONS						
Performance standard	Random sample inspections			Other OSM inspections		
	Number of times standard was evaluated	Times site was in compliance with standard		Number of times standard was evaluated	Times site was in compliance with standard	
		Number	Percent		Number	Percent
A. Administrative						
1. Mining within valid permit area	15	11	73	3	1	33
2. Mining within bonded area	15	12	80	2	0	0
3. Terms and conditions of permit	15	11	73	0	0	NA
4. Liability insurance	15	15	100	0	0	NA
5. Ownership and control	15	13	87	1	0	0
6. Temporary cessation	6	6	100	0	0	NA
B. Hydrologic balance						
1. Drainage control	15	9	60	4	3	75
2. Inspections and certifications	15	14	93	0	0	NA
3. Siltation structures	15	15	100	3	2	67
4. Discharge structures	15	14	93	1	1	100
5. Diversions	15	11	73	1	1	100
6. Effluent limits	15	15	100	1	1	100
7. Ground water monitoring	12	12	100	0	0	NA
8. Surface water monitoring	15	15	100	1	1	100
9. Drainage--acid/toxic materials	10	9	90	0	0	NA
10. Impoundments	14	11	79	0	0	NA
11. Stream buffer zones	11	11	100	0	0	NA
C. Topsoil and subsoil						
1. Removal	13	12	92	0	0	NA
2. Substitute materials	11	11	100	0	0	NA
3. Storage and protection	14	12	86	0	0	NA
4. Redistribution	9	8	89	1	1	100
D. Backfilling and grading						
1. Exposed openings	9	9	100	2	2	100
2. Contemporaneous reclamation	10	9	90	0	0	NA
3. Approximate original contour	7	7	100	2	0	0
4. Highwall elimination	7	7	100	3	0	0
5. Steep slopes (includes downslope)	7	7	100	0	0	NA
6. Handling of acid/toxic materials	8	7	88	1	1	100
7. Stabilization (slides, rills, gullies)	12	10	83	3	2	67

(Table 8 continued on next page)

TABLE 8 (CONTINUATION)

COMPLIANCE FINDINGS -- OSM INSPECTIONS						
Performance standard	Random sample inspections			Other OSM inspections		
	Number of times standard was evaluated	Times site was in compliance with standard		Number of times standard was evaluated	Times site was in compliance with standard	
		Number	Percent		Number	Percent
E. Excess spoil disposal						
1. Placement	1	1	100	0	0	NA
2. Drainage control	1	1	100	0	0	NA
3. Surface stabilization	1	1	100	0	0	NA
4. Inspections and certifications	0	0	NA	0	0	NA
F. Coal mine waste disposal						
1. Drainage control	6	5	83	0	0	NA
2. Surface stabilization	6	5	83	0	0	NA
3. Placement	6	5	83	0	0	NA
4. Inspections and certifications	6	6	100	0	0	NA
5. Impounding structures	4	3	75	0	0	NA
G. Use of explosives						
1. Blaster certification	1	1	100	0	0	NA
2. Distance prohibitions	1	1	100	0	0	NA
3. Blast survey/schedule	1	1	100	0	0	NA
4. Warnings and records	1	1	100	0	0	NA
5. Control of adverse effects	1	1	100	0	0	NA
H. Subsidence control plan	12	12	100	0	0	NA
I. Roads						
1. Road construction	15	14	93	1	1	100
2. Certification	15	14	93	0	0	NA
3. Drainage	15	12	80	1	1	100
4. Surfacing and maintenance	14	11	79	2	1	50
5. Reclamation	9	9	100	2	2	100
J. Signs and markers						
1. Signs	15	15	100	0	0	NA
2. Markers	15	15	100	0	0	NA
K. Distance prohibitions	15	15	100	0	0	NA
L. Revegetation						
1. Vegetative cover	10	10	100	3	2	67
2. Timing	10	10	100	2	2	100
M. Postmining land use	10	10	100	1	1	100
N. Other	6	0	0	1	1	100
Totals (both pages)	9.8	8.8	89	1.8	1.17	72

^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.

TABLE 9

VIOLATIONS PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION OF SITES INSPECTED BY OSM ^A				
Performance standard	Random sample inspections		Other OSM inspections	
	Number cited by State	Number uncited by State	Number cited by State	Number uncited by State
A. Administrative				
1. Mining within valid permit area	2	3	0	2
2. Mining within bonded area	0	0	0	0
3. Terms and conditions of permit	1	2	0	0
4. Liability insurance	0	0	0	0
5. Ownership and control	1	1	0	0
6. Temporary cessation	0	0	0	0
B. Hydrologic balance				
1. Drainage control	2	4	0	1
2. Inspections and certifications	0	2	0	0
3. Siltation structures	1	3	0	0
4. Discharge structures	0	0	0	0
5. Diversions	0	1	0	0
6. Effluent limits	0	0	0	0
7. Ground water monitoring	0	0	0	0
8. Surface water monitoring	0	0	0	0
9. Drainage--acid/toxic materials	0	1	0	0
10. Impoundments	0	1	0	0
11. Stream buffer zones	0	0	0	0
C. Topsoil and subsoil				
1. Removal	0	1	0	0
2. Substitute materials	0	0	0	0
3. Storage and protection	0	2	0	0
4. Redistribution	0	0	0	0
D. Backfilling and grading				
1. Exposed openings	0	0	0	0
2. Contemporaneous reclamation	0	1	0	0
3. Approximate original contour	0	0	0	2
4. Highwall elimination	0	0	0	5
5. Steep slopes (includes downslope)	0	0	0	0
6. Handling of acid/toxic materials	0	0	0	0
7. Stabilization (slides, rills, gullies)	0	1	0	1
E. Excess spoil disposal				
1. Placement	0	0	0	0
2. Drainage control	0	0	0	0
3. Surface stabilization	0	0	0	0
4. Inspections and certifications	0	0	0	0

(Table 9 continued on next page)

TABLE 9 (CONTINUATION)

VIOLATIONS PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION OF SITES INSPECTED BY OSM ^A				
Performance standard	Random sample inspections		Other OSM inspections	
	Number cited by State	Number uncited by State	Number cited by State	Number uncited by State
F. Coal mine waste disposal				
1. Drainage control	0	0	0	0
2. Surface stabilization	0	0	0	0
3. Placement	0	0	0	0
4. Inspections and certifications	0	0	0	0
5. Impounding structures	0	0	0	0
G. Use of explosives				
1. Blaster certification	0	0	0	0
2. Distance prohibitions	0	0	0	0
3. Blast survey/schedule	0	0	0	0
4. Warnings and records	0	0	0	0
5. Control of adverse effects	0	0	0	0
H. Subsidence control plan	0	0	0	0
I. Roads				
1. Road construction	0	1	0	0
2. Certification	0	1	0	0
3. Drainage	0	0	0	0
4. Surfacing and maintenance	0	1	0	1
5. Reclamation	0	0	0	0
J. Signs and markers				
1. Signs	0	0	0	0
2. Markers	0	0	0	0
K. Distance prohibitions	0	0	0	0
L. Revegetation				
1. Vegetative cover	0	0	0	1
2. Timing	0	0	0	0
M. Postmining land use	0	0	0	0
N. Other	1	5	0	0
Totals (both pages)	8	31	0	13
Note: For all sites on which OSM conducted certain types of inspections in Utah during EY 1994, Table 9 provides a breakdown by performance standard of the number of violations that were present at the time of the last State complete inspection (LSCI), including those cited by the State at that time but which are no longer present at the time of the OSM inspection. It also categorizes these violations by whether they were cited or uncited by the State inspector at the time of the LSCI. Violations cited prior to the LSCI are not included.				
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.				

TABLE 10

SERIOUSNESS OF VIOLATIONS ^A PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION OF SITES INSPECTED BY OSM OSM Random Sample Inspection Sites Only								
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS REMAINING WITHIN PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of impact or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	0	8	0	2	0	0	0	10
Likely	0	1	3	3	0	1	3	5
Occurred	0	0	1	4	0	0	1	4
Subtotals	0	9	4	9	0	1	4	19
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS EXTENDING OUTSIDE PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of actual or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	0	1	0	0	0	0	0	1
Likely	1	0	0	3	0	0	1	3
Occurred	0	0	0	0	0	0	0	0
Subtotals	1	1	0	3	0	0	1	4
NUMBER OF ADMINISTRATIVE (RECORDKEEPING) VIOLATIONS								
	Degree of obstruction to enforcement						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
	0	4	0	4	3	0	3	8
ALL TYPES OF VIOLATIONS								
	Degree of impact or obstruction						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
TOTALS (entire table)	1	14	4	16	3	1	8	31
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.								
^B Violations cited by the State at the time of the last State complete inspection.								
^C Violations not cited by the State at the time of the last State complete inspection.								
Note: For all sites on which OSM conducted random sample inspections in Utah during EY 1994, Table 10 summarizes the seriousness of those violations which existed at the time of the last State complete inspection (LSCI), including those violations which were cited by the State at the time of the LSCI but which no longer exist at the time of the OSM inspection. It also characterizes the seriousness of these violations according to whether they were cited by the State at the time of the LSCI. Violations cited prior to the LSCI are not included.								

TABLE 11

SERIOUSNESS OF VIOLATIONS ^A PRESENT AT TIME OF LAST STATE COMPLETE INSPECTION OF SITES INSPECTED BY OSM Excluding OSM Random Sample Inspection Sites								
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS REMAINING WITHIN PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of impact or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	0	0	0	0	0	0	0	0
Likely	0	3	0	0	0	2	0	5
Occurred	0	0	0	2	0	2	0	4
Subtotals	0	3	0	2	0	4	0	9
NUMBER OF VIOLATIONS WITH ACTUAL OR POTENTIAL IMPACTS EXTENDING OUTSIDE PERMIT AREA								
Probability of occurrence of event that the violated standard is designed to prevent	Degree of actual or potential impact						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
None or unlikely	0	1	0	0	0	0	0	1
Likely	0	0	0	0	0	0	0	0
Occurred	0	0	0	0	0	0	0	0
Subtotals	0	1	0	0	0	0	0	1
NUMBER OF ADMINISTRATIVE (RECORDKEEPING) VIOLATIONS								
	Degree of obstruction to enforcement						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
	0	3	0	0	0	0	0	3
ALL TYPES OF VIOLATIONS								
	Degree of impact or obstruction						Totals	
	Minor		Moderate		Considerable			
	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C	Cited ^B	Uncited ^C
TOTALS (entire table)	0	5	0	2	0	1	0	13
^A Does not include violations in ten-day notices which either are on appeal to the Deputy Director or have not been affirmed on appeal.								
^B Violations cited by the State at the time of the last State complete inspection.								
^C Violations not cited by the State at the time of the last State complete inspection.								
Note: For all sites on which OSM conducted certain types of oversight inspections in Utah during EY 1994, Table 11 summarizes the seriousness of those violations which existed at the time of the last State complete inspection (LSCI), including those violations which were cited by the State at the time of the LSCI but which no longer exist at the time of the OSM inspection. It also characterizes the seriousness of these violations according to whether they were cited by the State at the time of the LSCI. Violations cited prior to the LSCI are not included.								

TABLE 12

CITIZEN COMPLAINTS		
Number of complaints	State	OSM
Action pending as of July 1, 1993	0	0
Complaints received in EY 1994	0	0
Complaints referred to State		0
Complaints investigated	0	0
Responses provided to complainant	0	0
Action pending as of June 30, 1994	0	0

TABLE 13

PERMIT APPLICATIONS RECEIVED BY STATE				
Type of application	Surface mines	Underground mines	Other facilities	Totals
New permits	0	0	0	0
Renewals	0	4	3	7
Transfers, sales and assignments of permit rights	0	0	1	1
Small operator assistance	0	0	0	0
Exploration permits	0	0	0	0
Totals	0	0	0	0

TABLE 14

<p align="center">STATE PERMITTING ACTIONS (Applications Approved and Authorizations to Operate Issued)</p>								
Type of application	Surface mines		Underground mines		Other facilities		Totals	
	No.	Acres	No.	Acres ^A	No.	Acres	No.	Acres
New permits	0	0	0	0	0	0	0	0
Renewals	0	0	1	280	2	136	3	416
Revisions (exclusive of incidental boundary revisions)	0		123		14		137	
Incidental boundary revisions	0	0	3		0	0	3	0
Transfers, sales and assignments of permit rights	0		0		1		1	
Small operator assistance	0		0		0		0	
Exploration permits	0		0		0		0	
Exploration notices ^B	0		4		0		4	
Totals	0	0	131	280	17	136	148	416
Number of permits identified by OSM as being improvidently issued ^C								0
Number of improvidently issued permits for which the State took appropriate corrective action.								0
<p>^A Includes only the number of acres of proposed surface disturbance.</p> <p>^B State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.</p> <p>^C Permits meeting the criteria of 30 CFR 773.20(b) and requiring rescission or other action by the State.</p>								

TABLE 15

BONDS RELEASED BY STATE (Permanent Program Permits)		
Reclamation phase	Number of release applications approved	Acres released
I	1	280
II	0	0
III	0	0

TABLE 16

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of July 1, 1993 ^A	4	263,380	28.5
Bonds forfeited during EY 1994	0	0	0
Forfeited bonds collected as July 1, 1993 ^A	2	72,180	9
Forfeited bonds collected during EY 1994	0	0	0
Forfeiture sites reclaimed during EY 1994	1	38,000 ^B	7.0
Forfeiture sites repermited during EY 1994	0	0	0
Forfeiture sites unreclaimed as of June 30, 1994	0		0
Excess reclamation costs recovered from permittee	0	0	0
Excess forfeiture proceeds returned to permittee	0	0	0
^A Includes data only for those forfeiture sites not fully reclaimed as of this date. ^B Cost of reclamation, excluding general administrative expenses.			

TABLE 17

STATUS OF STATE'S BOND POOL OR FORFEITURE RECLAMATION FUND (For States with Alternative Bonding Systems)		
	July 1, 1993	June 30, 1994
Number of participating permits	N/A	N/A
Acreage of participating permits	N/A	N/A
Fund balance	N/A	N/A
Fund income		N/A
Expenditures		N/A
Funds restricted to use on a specific site (to be returned if permittee reclaims site)	N/A	N/A
Reclamation liabilities^A		
Number of sites	N/A	N/A
Acres	N/A	N/A
Estimated cost of reclamation	N/A	N/A
Portion of estimated reclamation cost covered by site-restricted bonds	N/A	N/A
^A Includes cost of reclaiming all sites for which the State has issued final bond forfeiture orders.		

TABLE 18

LANDS UNSUITABLE PETITIONS	
Petitions seeking to designate lands as unsuitable for mining	
Decisions pending as of July 1, 1993	0
Petitions received during EY 1994	0
Petitions approved during EY 1994	0
Petitions rejected during EY 1994	0
Petitions approved in part/rejected in part during EY 1994	0
Decisions pending as of June 30, 1994	0
Petitions seeking to terminate previous lands unsuitable designations	
Decisions pending as of July 1, 1993	0
Petitions received during EY 1994	0
Petitions approved during EY 1994	0
Petitions rejected during EY 1994	0
Petitions approved in part/rejected in part during EY 1994	0
Decisions pending as of June 30, 1994	0

TABLE 19

UTAH STAFFING (Fulltime Equivalents at End of Evaluation Year)			
Function	EY 1992	EY 1993	EY 1994
Abandoned mine land reclamation program (total)	9.00	7.00	9.00
Regulatory program			
Permit review ^A	13.00	13.00	13.00
Inspection ^A	4.00	4.00	4.00
Other (general administration, fiscal, personnel, etc.) .	6.50	6.50	6.50
Totals for regulatory program	23.50	23.50	23.50
Interagency personnel assignments	0	0	0
Totals	32.50	30.50	32.50
^A Does not include supervisory or clerical personnel.			

TABLE 20

FUNDS GRANTED TO UTAH BY EVALUATION YEAR (Millions of Dollars)												
Type of grant	Federal funds requested by utah			Federal funds awarded			Federal funds deobligated			Federal funding as a percentage of total program costs		
	1992	1993	1994	1992	1993	1994	1992	1993	1994	1992	1993	1994
Administration and enforcement	1.54	1.54	1.63	1.20	1.26	1.26	0.00	0.00	0.00	80.4%	85.5%	85.5%
Abandoned mine land reclamation ^A	1.79	2.56	2.09	1.79	2.54	2.04	0.20	0.00	0.00	100%	100%	100%
Small operator assistance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0%	0%	0%
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0%	0%	0%
Totals	3.33	4.10	3.72	2.99	3.80	3.30	0.20	0.00	0.00	90.5%	94.7%	93.9%
^A Includes administrative grants, construction grants, and cooperative agreements. ^B Percentage calculated on weighted basis.												

TABLE 21

STATUS OF AMLR FUNDS AWARDED TO UTAH (Millions of Dollars)						
Year of award	Funds approved by OSM	Cumulative obligations by Utah	Cumulative outlays by State/Tribe Utah	Funds deobligated by Utah (cumulative)	Funds remaining available for obligation (cumulative)	Percent of grant period lapsed
Administrative costs (including State emergency program administrative costs)						
EY 81-93	6.31		5.12	0.76	0.43	98%
EY 94	0.38		0.00	0.00	0.38	0%
Subtotals	6.69		5.12	0.76	0.81	92%
Project costs (exclusive of State emergency project costs)						
EY 81-93	13.01	10.80	9.31	1.14	2.56	87%
EY 94	1.66	0.00	0.00	0.00	1.66	0%
Subtotals	14.67	10.80	9.31	1.14	4.22	77%
State emergency project costs						
EY 81-93	0.00		0.00	0.00	0.00	0%
EY 94	0.00		0.00	0.00	0.00	0%
Subtotals	0.00		0.00	0.00	0.00	0%
Set-aside program costs						
EY 81-93	0.43		0.43	0.00	0.00	100%
EY 94	0.00		0.00	0.00	0.00	0%
Subtotals	0.43		0.43	0.00	0.00	100%
Subsidence insurance program costs						
EY 81-93	0.00		0.00	0.00	0.00	0%
EY 94	0.00		0.00	0.00	0.00	0%
Subtotals	0.00		0.00	0.00	0.00	0%
Cooperative agreement costs						
All EY	0.00	0.00	0.00	0.00	0.00	0%
Totals	21.79	10.80	14.86	1.90	5.03	82%

TABLE 22

ABANDONED MINE LAND RECLAMATION NEEDS AND ACCOMPLISHMENTS SINCE PROGRAM APPROVAL							
Problem nature	Unit	Coal-related problems				Noncoal-related problems	
		Abatement status			Total	Abatement status	
		Unfunded	Funded	Completed		Funded	Completed
Priority 1 & 2 (Protection of public health, safety, and general welfare)							
Clogged streams	Miles	0.2	0	10.6	10.8	—	—
Clogged stream lands	Acres	6.0	0	0	6.0	—	—
Dangerous highwalls	Lin. Feet	0	0	2,925	2,925.0	—	—
Dangerous impoundments	Count	0	0	1	1.0	—	—
Dangerous piles & embankments	Acres	0.7	0	99	99.7	—	—
Dangerous slides	Acres	0	0	0	0.0	—	—
Gases: hazardous/explosive	Count	8.0	0	19	27.0	—	—
Underground mine fires	Acres	56.0	20	17	93.0	—	—
Hazardous equip. & facilities	Count	15	0	135	150.0	—	3
Hazardous water bodies	Count	0	0	0	0.0	—	—
Industrial/residential waste	Acres	0	0	2	2.0	—	—
Portals	Count	66	8	481	555.0	—	422
Polluted water: agric. & indust.	Count	0	0	2	2.0	—	—
Polluted water: human consumption	Count	0	0	0	0.0	—	—
Subsidence	Acres	0	1	2	3.0	—	6
Surface burning	Acres	6	0	33.8	39.8	—	—
Vertical opening	Count	3	0	23	26.0	—	270
Priority 3 (Environmental restoration)							
Spoil areas	Acres	37.3	0	49.0	86.3	—	—
Benches	Acres	8.0	0	4.0	12.0	—	—
Pits	Acres	3.0	0	6.0	9.0	—	—
Gob piles	Acres	61.0	0	229.0	290.0	—	—
Slurry ponds	Acres	0	0	1	1.0	—	—
Haul roads	Acres	0.5	0	3.0	3.5	—	—
Mine openings	Count	0	0	0	0.0	—	—
Slumps	Acres	7.0	0	16.0	23.0	—	—
Highwalls	Lin. Feet	0	0	550	550.0	—	—
Equipment/facilities	Count	16	0	58	74.0	—	—
Industrial/residential waste	Acres	0	0	0	0.0	—	—
Water problems	Gal./min.	1.5	0	20.3	21.8	—	—
Other	---	—	—	—	0.0	—	—
Note: All data in this table are taken from the Abandoned Mine Land Inventory System (AMLIS). Since information concerning noncoal-related problems and accomplishments did not have to be included in AMLIS until November 26, 1991, the table may not reflect all noncoal-related accomplishments.							

APPENDIX B

OSM Cyclical Review Schedule for Evaluating State Program Elements and Sub-elements (Evaluation Years 1992-1994)

UTAH
CYCLICAL REVIEW SCHEDULE

Evaluation Years 1992-1994

Regulatory Program Evaluation Codes

- 0 - No evaluation planned
- 1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
 - (a) Inspection findings
 - (b) Analysis of State data and documents routinely supplied to the Field Office
 - (c) Public concern
 - (d) Action plan item or other previously identified unresolved problem
 - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

AMLR Program Evaluation Codes

- 0 - No evaluation planned
- 1 - Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)
- 2 - Routine cyclical in-depth review
- 3 - Selective-focus evaluation resulting from:
 - (a) Site visit findings
 - (b) Analysis of State or Tribal data and documents routinely supplied to the Field Office
 - (c) Public concern
 - (d) Action plan item or other previously identified unresolved problem
 - (e) Action plan follow-up (verification of tentative resolutions)
- 4 - National priority review

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
A. Permitting Actions			
1. Processing of new mining permit applications			
a. Administrative completeness	2	0	0
b. Public notice, availability for public review, consideration of comments and notice of decision	2	0	0
c. Coordination with other permitting authorities and solicitation and consideration of comments from other governmental agencies	2	0	0
d. Completeness and accuracy of data concerning ownership, compliance history, right of entry, and protected lands and structures	2	0	0
e. Adequacy of baseline data	2	0	0
f. Mining and reclamation plan	2	0	0
g. Subsidence control plan	2	0	0
h. PHC/CHIA	2	0	0
i. Liability insurance	2	0	0
j. Written findings and documentation	2	0	0
k. Permit terms and conditions	2	0	0
l. AVS operation, maintenance, and use	2	0	0
2. Processing of exploration applications			
a. Application completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
c. Justification for sale or commercial use	0	0	2
d. Written findings and documentation	0	0	2
3. Processing of notices of intent to explore	2	0	0
4. Processing of applications for permit revisions, transfers, assignments, and sales			
a. Determination of significance (revision applications only)	2	0	0
<div> <div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> </div> <div> <div>3 - Selective-focus evaluation resulting from:</div> <div>(a) Inspection findings</div> <div>(b) Analysis of State data and documents routinely supplied to the Field Office</div> <div>(c) Public concern</div> </div> <div> <div>(d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>4 - National priority review</div> </div>			

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
b. Public notice (if applicable) and consideration of comments	2	0	0
c. PHC/CHIA reevaluation (revision applications only)	2	0	0
d. Written findings and documentation	2	0	0
5. Processing of permit renewal applications			
a. Completeness	0	0	2
b. Public notice and consideration of comments	0	0	2
6. Midterm permit reviews	2	0	0
7. Periodic reviews of permits for special types of mining	0	0	2
8. Remediation of improvidently issued permits	0	2	0
9. Technical subject evaluation - Threatened and Endangered Species			
B. Bonding			
1. Bond instrument tracking and security systems	0	2	0
2. Computation and adequacy of bond amounts	2	0	0
3. Verification of bond instrument validity, value and lack of restrictions	0	2	0
4. Alternative bonding system operation and solvency	0	NA	NA
5. Bond adjustments and replacements	0	2	0
6. Processing of bond release applications			
a. Public notice, notification of interested parties and consideration of comments	0	0	2
b. Evaluation of adequacy of proposed remaining bond (partial releases only)	0	0	2
c. Documentation that bond release standards have been met	0	0	2
7. Bond forfeiture			
a. Procedures	2	0	0
b. Collection and litigation efforts	2	0	0
c. Reclamation of forfeiture sites	2	0	0
0 - No evaluation planned	3 - Selective-focus evaluation resulting from:	(d) Action plan item or other previously identified unresolved problem	
1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)	(a) Inspection findings (b) Analysis of State data and documents routinely supplied to the Field Office (c) Public concern	(e) Action plan follow-up (verification of tentative resolutions)	
2 - Routine cyclical in-depth review		4 - National priority review	

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM				
Elements and subelements		Type of evaluation		
		EY 1992	EY 1993	EY 1994
C. Inspections				
1. Inspection frequency and procedures		2	1	1
2. Inspection reports				
a. Accuracy and completeness		2	0	0
b. Documentation of violations, site conditions and mine activity status		2	0	0
3. Maintenance of inspectable units list and inspection database		2	0	0
4. Handling of citizen complaints and requests for inspections		0	0	0
D. Enforcement				
1. Identification and citation of violations		1	3(d)	1
2. Notices of violations and cessation orders				
a. Timeliness of issuance and termination		0	0	2
b. Appropriateness of remedial measures and abatement periods		0	0	2
c. Documentation of reasons for modifications, terminations and vacations		0	0	2
3. Pattern of violations reviews, show cause orders and hearings		2	0	0
4. Timeliness and effectiveness of alternative enforcement actions		2	0	0
5. Responses to ten-day notices		2	1	1
E. Civil Penalties				
1. Penalty assessment procedures		0	2	0
2. Documentation of rationale for penalty assessment amounts, waivers and adjustments		0	2	0
3. Maintenance of enforcement value				
a. Blocking of new permits if penalties unpaid		0	2	0
b. Collection efforts		0	2	0
0 -	No evaluation planned	3 -	Selective-focus evaluation resulting from:	
1 -	Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)		(a) Inspection findings	
			(b) Analysis of State data and documents routinely supplied to the Field Office	
			(c) Public concern	
2 -	Routine cyclical in-depth review	4 -	(d) Action plan item or other previously identified unresolved problem	
			(e) Action plan follow-up (verification of tentative resolutions)	
			National priority review	

CYCLICAL REVIEW SCHEDULE

REGULATORY PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
F. Administrative and Judicial Review			
1. Review procedures			
a. Notification of rights	0	2	0
b. Escrowing of penalties	0	2	0
c. Timeliness of hearings and decisions	0	2	0
d. Documentation of decision rationale	0	2	0
2. Appeal or remediation of adverse decisions	0	2	0
3. Cost recovery procedures and decisions	0	2	0
G. Designation of Lands Unsuitable for Mining			
1. Processing of petitions	2	0	0
2. Maintenance of database and inventory system	2	0	0
H. Blaster Certification			
1. Training	0	2	0
2. Certification	0	2	0
3. Suspension and revocation	0	2	0
I. Small Operator Assistance			
1. Application review and verification of eligibility	0	0	2
2. Contract monitoring	0	0	2
3. Reimbursement monitoring and procedures	0	0	2
4. Laboratory certification	0	0	2
J. Maintenance of Approved Program			
1. Notification to OSM of program changes and significant conditions and events affecting implementation	2	0	1
2. Responses to Part 732 notifications and codified conditions and amendment requirements	2	0	1
3. Promulgation and implementation of approved program amendments	2	0	1
0 - No evaluation planned	3 - Selective-focus evaluation resulting from:	(d) Action plan item or other previously identified unresolved problem	
1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)	(a) Inspection findings	(e) Action plan follow-up (verification of tentative resolutions)	
	(b) Analysis of State data and documents routinely supplied to the Field Office	National priority review	
	(c) Public concern		
2 - Routine cyclical in-depth review	4 -		

REGULATORY PROGRAM

Utah November 22, 1994

CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
A. Project Planning			
1. Inventory maintenance	2	0	0
2. Project selection	2	0	0
3. Interagency coordination	0	2	0
4. Project design	0	2	0
5. Rights of entry	2	0	0
6. Lien eligibility determinations	2	0	0
B. Project Construction			
1. Adequacy of contract terms and specifications	0	2	0
2. Construction management	2	0	2
3. Post-construction monitoring and evaluation	2	0	2
4. Project maintenance	2	0	0
5. Lien recording and maintenance	2	0	0
6. Emergency investigations and abatement efforts	NA	NA	NA
C. Program Administration			
1. Grants management			
a. Drawdowns and disbursements	0	2	0
b. Accounting procedures	0	2	0
c. Timeliness of applications and reports	2	0	0
d. Maintenance of internal controls	0	0	2
e. Audits and implementation of audit recommendations	0	2	0
f. Procurement and management of property and services	0	0	2
2. Data management	0	2	0
3. Coordination with other agencies	0	0	0
4. Management and disposal of abandoned mine lands	0	2	0
5. Subsidence insurance program management	N/A	N/A	N/A
0 - No evaluation planned	3 - Selective-focus evaluation resulting from:		(d) Action plan item or other previously identified unresolved problem
1 - Standard continuous oversight (routine site visits and/or review of State or Tribal data and documents routinely supplied to the Field Office)	(a) Site visit findings	(b) Analysis of State or Tribal data and documents routinely supplied to the Field Office	(e) Action plan follow-up (verification of tentative resolutions)
2 - Routine cyclical in-depth review	(c) Public concern	4 - National priority review	

CYCLICAL REVIEW SCHEDULE

ABANDONED MINE LAND RECLAMATION PROGRAM			
Elements and subelements	Type of evaluation		
	EY 1992	EY 1993	EY 1994
D. Maintenance of Approved Reclamation Plan			
1. Notification to OSM of significant conditions and events affecting plan implementation	0	2	2
2. Responses to OSM notifications that plan amendments are needed	0	2	2
3. Promulgation and implementation of approved plan amendments	0	2	2
<div>0 - No evaluation planned</div> <div>1 - Standard continuous oversight (random sample and bond release inspections and/or review of State data and documents routinely supplied to the Field Office)</div> <div>2 - Routine cyclical in-depth review</div> <div>3 - Selective-focus evaluation resulting from:<div>(a) Inspection findings</div><div>(b) Analysis of State data and documents routinely supplied to the Field Office</div><div>(c) Public concern</div></div> <div>4 - (d) Action plan item or other previously identified unresolved problem</div> <div>(e) Action plan follow-up (verification of tentative resolutions)</div> <div>National priority review</div>			

APPENDIX C

State Comments on Report



United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement

Suite 1200

505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

OCT 19 1994

To: Thomas Ehmett, Acting Director
Albuquerque Field Office

From: Donna Griffin, Acting Supervisor
Regulatory Program Branch

DJG

Subject: Utah 1994 Annual Evaluation Report Comments

The 1994 Annual Evaluation Report was mailed to Utah Division of Oil, Gas and Mining (DOGM) on August 23, 1994. The Albuquerque Field Office requested that DOGM respond within 30 days.

Today, October 19, 1994, upon my inquiry about pending comments, Pam Grubaugh-Littig of DOGM informed me that DOGM has no comments on the 1994 report.

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To	Lowell Braxton	
From	Jim Fulton	
Co.	OSM	
Dept.	Phone # 303 672 5524	
Fax #	Fax # 303-672-5668	

Office of Surface Mining Reclamation and Enforcement

Annual Evaluation Report

for the

Regulatory and Abandoned Mine Land Reclamation Programs

Administered by the State

of

UTAH

for

Evaluation Year 1995

(July 1, 1994 through December 31, 1995)

June 1996

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[Appendix B:

I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the regulation of surface coal mining and reclamation operations and the reclamation of abandoned mine lands within its borders. Once a State has obtained such approval, OSM has the responsibility to make the investigations, evaluations, and inspections necessary to determine whether the State is implementing and maintaining its regulatory and abandoned mine land reclamation (AMLR) programs in accordance with SMCRA and the approved program provisions.

On August 9, 1994, the Albuquerque Field Office (AFO) conducted a public meeting in Salt Lake City, Utah, to solicit comments regarding the oversight process, recommendation for additional review topics, and suggestions for improvement of future reports.

Effective July 1, 1995, OSM transferred the responsibility for conducting oversight of the Utah regulatory program from AFO to the Denver Field Division (DFD). DFD drafted this report, which covers the 18-month period from July 1, 1994, through December 31, 1995. It includes summaries of workplan reviews conducted by the AFO during the time period July 1, 1994, through June 30, 1995, and tables of data compiled by DFD for the time period January 1, 1995, through December 31, 1995. Detailed background information and comprehensive reports for each program element and subelement evaluated in depth are available for review at the DFD office.

II. List of Acronyms

AFO	Albuquerque Field Office
AMLR	abandoned mine lands reclamation
AVS	Applicant Violator System
CFR	Code of Federal Regulations
DFD	Denver Field Division
DOGM	Utah Division of Oil, Gas and Mining
EY 95	evaluation year 1995
OSM	Office of Surface Mining Reclamation and Enforcement
POV	pattern of violation
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	ten-day notice

III. Executive Summary

Regulatory program.--Evaluation year (EY) 95 was a time of significant progress for the implementation of the Utah regulatory program. The Utah Division of Oil, Gas and Mining (DOGM) and OSM resolved or partially resolved two major issues that had been under

contention by the two parties for over 5 years. These two issues had undermined DOGM's and OSM's shared commitment for protecting the environment and coal field citizens in Utah. By the end of EY 95, DOGM and OSM had cooperatively recommitted themselves to promoting the SMCRA principles of preventing offsite mine impacts and successfully achieving onsite mine reclamation.

One of the major issues concerned the permitting of mine access and haul roads. DOGM interpreted its law, rules, and a program policy for roads regulation in a manner that is consistent with SMCRA and the Federal regulations. Accordingly, OSM decided it was neither appropriate nor necessary in accordance with 30 CFR Part 733 to substitute direct Federal enforcement for that part of the regulatory program.

The other major issue concerned the restoration of approximate original contour as it relates to the elimination or retention of highwalls. DOGM promulgated rules that are no less stringent than SMCRA and no less effective than the Federal regulations. In the next evaluation period, DOGM and OSM will conduct minesite evaluations to determine whether these rules are being properly implemented.

Of lesser significance, Utah successfully resolved OSM's Applicant Violator System (AVS) maintenance concerns. It also approved two phase II bond releases.

With only a few exceptions, DOGM is implementing its regulatory program consistent with the provisions of SMCRA. During its EY 95 evaluation, OSM identified inadequacies concerning bond amounts and procedures, and patterns of violations reviews (POV's), and citizen participation in program changes. [With respect to bonding deficiencies, see bonding element discussion in IX. Summary Findings, A. Regulatory Program.

AMLR program.--Since January 21, 1981, the effective date of the Secretary of the Interior's approval of the Utah AMLR program, OSM has awarded DOGM \$23.75 million in funding for reclamation and administration of the program. The Utah AMLR program is generally well managed with no significant issues identified during EY 95. No outstanding significant issues existed from previous evaluation periods.

IV. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18 percent of the State, but only 4 percent is considered minable at this time. The demonstrated coal reserve base is about 6.4 billion tons, 1.3 percent of the national reserve base. Most of Utah's coal resources are held by the Federal government and Indian tribes.

The coal fields are divided into the Northern, Central, Eastern, and Southwestern Utah Coal Regions. The most productive region is the Central Utah Coal Region which includes the Book Cliffs, Wasatch Plateau, and Emery Coal Fields. There are vast, substantially undeveloped coal fields in the Southwestern Utah Coal Regions. Development of these fields

will probably be difficult because of environmental concerns resulting from the proximity of national parks and other recreation areas.

Most of the coal is bituminous and is of Cretaceous age. The BTU value is high compared to other States. Sulfur content ranges from medium to low in the more important coal fields.

Most current operations mine seams exceeding 8 feet in thickness. There is one surface mine, which was permitted in 1993. The rest of the coal production is from underground mining. There are 31 inspectable units, 23 of which are currently operating. There are 132,080 acres of land currently under permit for mining with approximately 2,500 acres disturbed. Coal production has been steadily increasing since the early 1970's, producing 24.57 million tons in 1995. Utah's coal industry employs approximately 2,500 miners.

The climate of the Central Utah Coal Region is characterized by hot, dry summers and cold, relatively moist winters. Normal precipitation varies from 6 inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from 5 months in some valleys to only 2 1/2 months in mountainous regions. These extreme climatic conditions make reclamation difficult.

Abandoned mine hazards in Utah are varied, numerous, and widespread. Coal mine hazards commonly include open vertical shafts, open portals, often accompanied by methane emission, deteriorated structures, burning coal piles, unstable mine waste piles, underground coal mine fires, subsidence, and erosion of waste material into streams. Most abandoned coal mines are found in the Central Utah Coal Region where much of the State's coal mining took place. However, abandoned coal mines can be found in the southwestern, south-central, and northeastern areas of Utah as well. Many coal problems areas in Utah already have been reclaimed. Thousands of abandoned noncoal mine hazards can be found throughout the State. Abandoned noncoal mine hazards in Utah commonly include open vertical and inclined shafts, open portals, deteriorated structures, unstable waste piles, and subsidence.

V. Success in Achieving the Purposes of SMCRA

Regulatory program.--One of the purposes of SMCRA is to assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the mining operations (section 102(e) of SMCRA). Approximately 132,080 acres have been permitted in Utah, but because of the large percentage of underground mines which create minimal surface disturbance, only 2,500 acres have been disturbed. With respect to reclamation success since original program approval, one final bond release has occurred, and additional limited reclamation has occurred on about 200 acres. Eight sites for which operations have ceased are in various stages of reclamation; three of these sites are in bond forfeiture. The amount of final reclamation is low, because most mines are still active, and for those that are not, most are in early stages of reclamation.

AMLR program.--One of the purposes of SMCRA is to promote the reclamation of mined

This "mine" extracts combustible coal & waste from a ~~regulated~~ ^{regulated} underground mine ~~from its~~ ^{refuse pile}. Mining

of that refuse will all reclamation of the refuse pile. OSM has not required mine fees be paid for this activity.

areas left without adequate reclamation prior to enactment of SMCRA and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public (section 102(h) of SMCRA). DOGM's reclamation projects abate environmental, health, and safety hazards. The restored lands are more compatible with surrounding areas and are of a greater use to the people and wildlife of Utah.

VI. Innovative State Actions

The Director, DOGM, actively participated on the joint States and OSM team that reinvented the oversight process for State regulatory programs. The team's efforts resulted in a results-oriented oversight strategy that was incorporated into OSM directive REG-8, "Oversight of State Regulatory Programs, and that was implemented beginning January 1, 1996. The new approach will result in a more meaningful oversight by focusing on on-the-ground results, and it will eliminate unnecessary paperwork, procedural details, and data collection. In acknowledging the team's significant accomplishments, the Secretary of the Interior noted that the new oversight philosophy will benefit the families who live and work in America's coalfields, be helpful in the States and OSM working together to achieve consensus, target funding based on State needs, and avoid duplication by OSM of State program implementation.

Utah began a series of public meetings with stakeholders, which are individuals who represent a variety of public and private parties that have an interest in the policies and procedures of DOGM. Stakeholders include ranchers, environmentalists, scientists, the media, lawmakers, government officials, and private citizens. At the meetings, DOGM updates the interested parties on its current and planned activities and solicits input on these activities.

VII. Status of Issues from Previous Annual Evaluation Reports

Regulatory program.--DOGM and OSM resolved or partially resolved two major issues. As the result of DOGM's interpretation of its law, rules, and program policy for roads regulation, they resolved a long-standing issue concerning the permitting of mine access and haul roads. As the result of DOGM's promulgation of rules that are no less stringent than SMCRA and no less effective than the Federal regulations, DOGM and OSM partially resolved another long-standing issue concerning the restoration of approximate original contour as it relates to the elimination or retention of highwalls. In the next evaluation period, DOGM and OSM will conduct minesite evaluations to determine whether these rules are being properly implemented.

In past evaluation reports, OSM identified as an issue DOGM's failure to cite most violations. On the basis of violations that OSM identified on inspections that it conducted shortly after DOGM complete inspections, OSM found for EY's 93 and 94 that DOGM respectively cited 16 and 21 percent of the identified violations. Utah has not agreed with

this assessment and there have been longstanding discussions with OSM on the subject. During EY 95, OSM conducted three inspections during which it identified two uncited violations. Because of the low number of recent OSM inspections, OSM cannot definitively conclude whether this previously identified deficiency still exists or has been corrected.

During past evaluation periods, OSM found that DOGM had not properly applied the criteria for assessment of civil penalties. OSM did not conduct an evaluation of this topic during EY 95.

AMLR program.--No outstanding significant issues remain from previous evaluation periods.

VIII. Actions Affecting Program Implementation

On February 7, 1995, OSM notified the Director, DOGM, that it had reason to believe that violations of the approved Utah regulatory program were resulting from Utah's failure to effectively enforce the part of the program for the regulations of mine access and haul roads. Therefore, OSM initiated actions under 30 CFR 733.12(b) that could result in direct OSM enforcement of these parts of the program. At Utah's request, OSM held an informal conference on March 14, 1995, to discuss OSM's notification. On July 3, 1995, DOGM clarified its policy on the permitting of public roads that may be used for, or related to, coal mining and reclamation activities. OSM agreed with this clarification and terminated the proceedings under 30 CFR Part 733.12.

I in I'd drop these sentences!
They don't pertain to this
year's activity. Any are that
needs to know what OSM found
in previous years can read
the old reports.
Sured

IX. Summary Findings

A. Regulatory Program

Regulatory Program Element: 2. Bonding

Sub-elements Reviewed: Maintenance of tracking and security systems for bonds; verification of the validity, value, and lack of restrictions placed on bonds; and bond adjustments and replacements.

Type of Review: Routine in-depth review.

Summary Findings: OSM reviewed DOGM's administration of its coal mining bonds. Bonding actions associated with permit transfers, adjustments, and bond replacements were evaluated. In addition, a follow-up review of one permit was conducted to determine if previous deficiencies had been resolved.

With respect to the security systems for bonds, OSM determined that DOGM maintains a good security system for its bonding instruments by locking them in a fire-proof cabinet with limited staff access. The bonding documents are placed in the cabinet in order by permit.

With respect to the tracking of bonding actions and instruments, DOGM maintains both a computerized system, the "Coal Bonds" report, and a physical bond file system. The computer report provides current information about permitting actions that resulted in changes to bonds.

Following evaluation of how each bonding action is tracked, OSM discussed with Utah the need for a records management system for bonding transactions.

OSM reviewed one permit covered by a self-bond. OSM determined during the review that financial data in DOGM's records are not current enough to determine whether the permittee still qualifies for self-bonding. During previous evaluation year reviews, DOGM indicated that its policy was to require annual audited financial statements from the permittee. However, the most recently completed 2 fiscal years of financial data have not been submitted to the State for review. This is a concern because the Financial Accounting Standards Board (FASB) has issued new accounting rules during recent years (FASB 106 and FASB 109) that companies must implement when preparing their financial statements. The implementation of these new rules has caused some self-bonded entities in other jurisdictions to no longer qualify for self-bonding.

Utah has indicated that it is preparing a schedule to resolve bonding deficiencies noted in the previous evaluation report pertaining to the Convulsion Canyon operation.

Regulatory Program Element: 3. Inspections

Sub-elements Reviewed: Inspection frequency and procedures.

Type of Review: Routine in-depth review

Summary Findings: DOGM conducted 259 partial and 126 complete inspections on 31 inspectable units. DOGM met the required complete inspection frequency for all mines except 4 active mines and 1 inactive mine. The overall percentage of required inspections conducted by DOGM (both complete and partial inspections) was 96 percent.

Regulatory Program Element: 4. Enforcement

Sub-elements Reviewed: POV reviews and responses to TDN's.

Type of Review: Routine in-depth review.

Summary of Findings: OSM identified four total POV's, not previously identified by DOGM, that occurred within the past 24 months at two mines (the White Oak Mines #1 and #2, and Sunnyside Refuse and Slurry). One administrative POV and one hydrologic balance POV occurred at each mine.

DOGM infrequently runs POV checks on its violation database. OSM believes programmatic and operational errors are made as a result. Errors include: not using the inspection date for a POV determination, not running the checks for a 24-month period, inconsistent and inaccurate coding of violations, and the failure to enter all enforcement actions. OSM believes that DOGM is not interpreting and implementing its June 2, 1993, POV directive in accordance with the intent of Utah Code Annotated 40-10-22(1)(d) and the implementing rule at R645-400-331.

Regulatory Program Element: 10. Maintenance of Approved Program

Sub-elements Reviewed: Notification to OSM of program changes.

Type of Review: Routine in-depth review.

Summary of Findings: There are three DOGM policies that AFO recommended be submitted to OSM for review due to potentially significant impacts to the State program. These policies are: POV's, alternative sediment control and small area exemptions, and restoration of approximate original contour.

Programmatic review for EY 96 will evaluate the alternative sediment control and small area exemption, and approximate original contour policies, thereby resolving these issues. If they are deemed to differ significantly from the State program, the State program amendment process would be required. The only remaining issue is the POV policy which should be submitted as a State program amendment due to many interpretative questions raised by OSM's Solicitors and State program amendment staff.

Jim: please add that DOGM disagrees that policies need be subjected to the State Program amendment process, and that OSM does not use a similar process for its own policy determination.

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Regulatory Program Element: 11. Program Administration

Sub-elements Reviewed: Grants management.

Type of Review: Routine in-depth review.

Summary Findings: OSM reviewed all grants transaction documents submitted by DOGM. DOGM continues to administer and manage Federal grants in accordance with Department of the Interior, Department of Treasury, and Office of Management and Budget requirements. DOGM submitted the regulatory grant application prior to the due date, which was helpful in OSM providing in a timely manner needed funds for continuous program support. Also, DOGM submitted financial, progress, and closeout reports to OSM in a timely manner. On the average, DOGM submitted financial reports 10 days prior to the due dates. OSM did not identify any significant grants management concerns through its contact with DOGM.

B. AMLR Program**AMLR Program Element: 1. Project Planning**

Sub-elements Reviewed: Inventory maintenance, project selection, rights of entry, and lien eligibility determinations.

Type of Review: Routine in-depth review.

Summary Findings: DOGM maintained a complete, current, prioritized inventory of sites eligible for, and in need of, reclamation.

DOGM adhered to the project ranking and selection process approved in its AMLR plan. It provided for adequate public participation in the project selection process in accordance with its approved plan.

DOGM acquired in a timely manner rights of entry necessary for project design, engineering, and reclamation.

DOGM did not assess any liens during the time period July 1, 1994, through June 30, 1995. Generally, DOGM determined whether any real estate parcels within project areas may be subject to liens after reclamation was completed. Liens qualifying for waivers were waived after the respective projects were completed.

AMLR Program Element: 2. Project Construction

Sub-elements Reviewed: Lien recording and maintenance; project maintenance.

Type of Review: Routine in-depth review.

Summary Findings: DOGM did not assess any liens in EY 95 through June 30, 1995. No professional appraisals were required in this period. DOGM's maintenance and disposition of a lien assessed in 1985 was in accordance with its approved program.

DOGM monitored completed projects and determined that maintenance needs require additional work at three projects. Maintenance of one noncoal project continued in this period to repair vandalized mine closures and to address openings created by subsidence. DOGM requested funding for additional work on an underground coal fire project in the 1995 simplified grant. Work to repair an eroded drainage ditch at a third project will be scheduled when initial reclamation of another project in the vicinity is contracted.

AMLR Program Element: 3. Program Administration

Sub-elements Reviewed: Grants management - maintenance of internal controls and, procurement and management of property and services; coordination with other agencies.

Type of Review: Routine in-depth review.

Summary Findings: OSM reviewed all documents it received about grant transactions. The State continues to administer and manage Federal grants in accordance with Department of the Interior, Department of Treasury, and Office of Management and Budget requirements. DOGM submitted the AMLR grant application well before it was due. Financial, progress and closeout reports are timely. On the average, DOGM submits financial reports 10 days prior to the due dates. Contacts with DOGM revealed no significant concerns in grants management.

DOGM's communication and coordination with other agencies enabled it to effectively administer its AMLR program. No projects have been reclaimed in Utah to date under the Natural Resource Conservation Service's Rural Abandoned Mine Program.

AMLR Program Element: Overall Reclamation Success

Sub-elements Reviewed: There are no sub-elements.

Type of Review: Routine in-depth review.

Summary Findings: OSM found that DOGM's reclamation projects abated identified health, safety, and environmental hazards, and they also protected property. Reclamation, which has been completed to date increased the probability that restored lands will be more compatible with surrounding areas and will return to a condition that will be of greater use to the people and wildlife of Utah than if left unreclaimed. Reclamation completed to date is consistent with Utah's approved plan and grant applications. Reclamation completed by DOGM is successful overall.

APPENDIX A**Tabular Summaries of Data Pertaining to Mining, Reclamation,
and Program Administration**

These tables present data pertinent to mining operations, State and Federal regulatory activities, and the reclamation of abandoned mines within Utah. They also summarize funding provided by OSM and Utah staffing. The reporting period for the data contained in all tables is the 1995 calendar year. Additional data used by OSM in its evaluation of Utah's performance is available for review in the evaluation files maintained by DFD.